

By: Keffer of Dallas

H.B. No. 2878

A BILL TO BE ENTITLED

AN ACT

relating to the premium surcharges applicable to and renewal of residential property insurance policies.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 5.43, Insurance Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) A residential property insurance claim under this article does not include a claim:

(1) resulting from a loss caused by natural causes;

(2) that is filed but is not paid or payable under the policy; or

(3) that an insurer is prohibited from using under Section 3, Article 5.35-4, of this code.

SECTION 2. Section 551.107, Insurance Code, as effective April 1, 2005, is amended by amending Subsections (b), (c), (e), and (f) and adding Subsection (g) to read as follows:

(b) A claim under this section does not include a claim:

(1) resulting from a loss caused by natural causes;

~~or~~

(2) that is filed but is not paid or payable under the policy; or

(3) that an insurer is prohibited from using under Section 3, Article 5.35-4.

(c) An insurer may assess a premium surcharge at the time an

insurance policy is renewed only if the insured has filed one [~~two~~] or more claims in the preceding three policy years [~~year~~]. [~~The insurer may assess an additional premium surcharge if an additional claim is made in the following policy year. The department shall set the amount of any surcharge that may be assessed under this subsection.~~] The amount of the surcharge may not exceed 10 percent of the total premium and must be:

(1) computed by multiplying the total policy premium for the renewal period by the surcharge percentage; and

(2) actuarially justifiable [~~, including any premium surcharge, actually paid by the insured in the preceding policy year~~].

(e) An insurer may notify an insured who has filed two claims in a period of less than three years that the insurer may refuse to renew the policy if the insured files a third claim during the three-year period. If the insurer does not notify the insured in accordance with this subsection, the insurer may not refuse to renew the policy because of claims [~~losses~~]. The notice form must:

(1) list the policyholder's claims; and

(2) contain the sentence: "The filing by you of another claim, except for a claim resulting from a loss caused by natural causes, a claim filed but not paid or payable under the policy under which it was filed, or an appliance-related claim that an insurer is prohibited from using under Section 3, Article 5.35-4, Texas Insurance Code, [Another non-weather related loss] could cause us to refuse to renew your policy."

(f) In this section, "premium surcharge" means any increase

1 in the total premium paid by an insured as a result of the insured's  
2 claims history. The term includes a surcharge fee, a reduction or  
3 elimination of a discount previously received by an insured,  
4 reassignment of an insured from one rating tier to another,  
5 re-rating an insured, or re-underwriting an insured using multiple  
6 affiliates [~~An insurer that renews the insurance policy of an~~  
7 ~~insured who has filed three or more claims under the policy in a~~  
8 ~~three-year period may assess a premium surcharge in an amount set by~~  
9 ~~the department~~].

10 (g) The commissioner shall adopt rules as necessary to  
11 implement this section.

12 SECTION 3. The changes in law made by this Act apply only to  
13 an insurance policy that is delivered, issued for delivery, or  
14 renewed on or after January 1, 2006. An insurance policy that is  
15 delivered, issued for delivery, or renewed before January 1, 2006,  
16 is covered by the law in effect at the time the policy was  
17 delivered, issued for delivery, or renewed, and that law is  
18 continued in effect for that purpose.

19 SECTION 4. This Act takes effect September 1, 2005.